

AA 224-00
VAR

Power, John
0148

MSA-S-1829-731

HL letter
5/24/00



Judge John C. North, II
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 260-7516 Fax: (410) 974-5338

May 31, 2000

Mr. Kevin Dooley
Anne Arundel County Department of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2000-0148-V, John Power

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a garage addition with less setbacks than required. The property is designated LDA and is currently developed with a single family dwelling.

From the information provided, it is difficult to assess this request. It appears that there is no additional impervious surface and no clearing involved in this proposal. Provided that this is the case, this office has no comment on the setback issue. Any vegetation disturbed should be replaced in kind.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

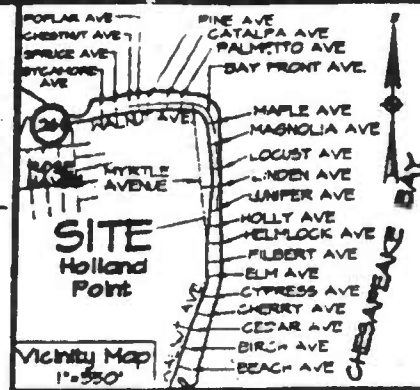
Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: AA224-00

THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, WHICH MAY SHOW ADDITIONAL CONVEYANCES, EASEMENTS, COVENANTS, RIGHT-OF-WAYS OR MORE STRINGENT BUILDING RESTRICTION LINES NOT SHOWN HEREON.

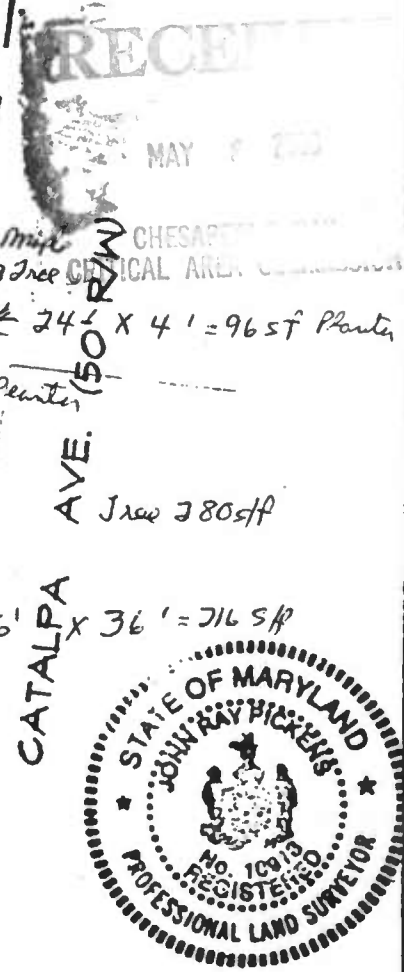
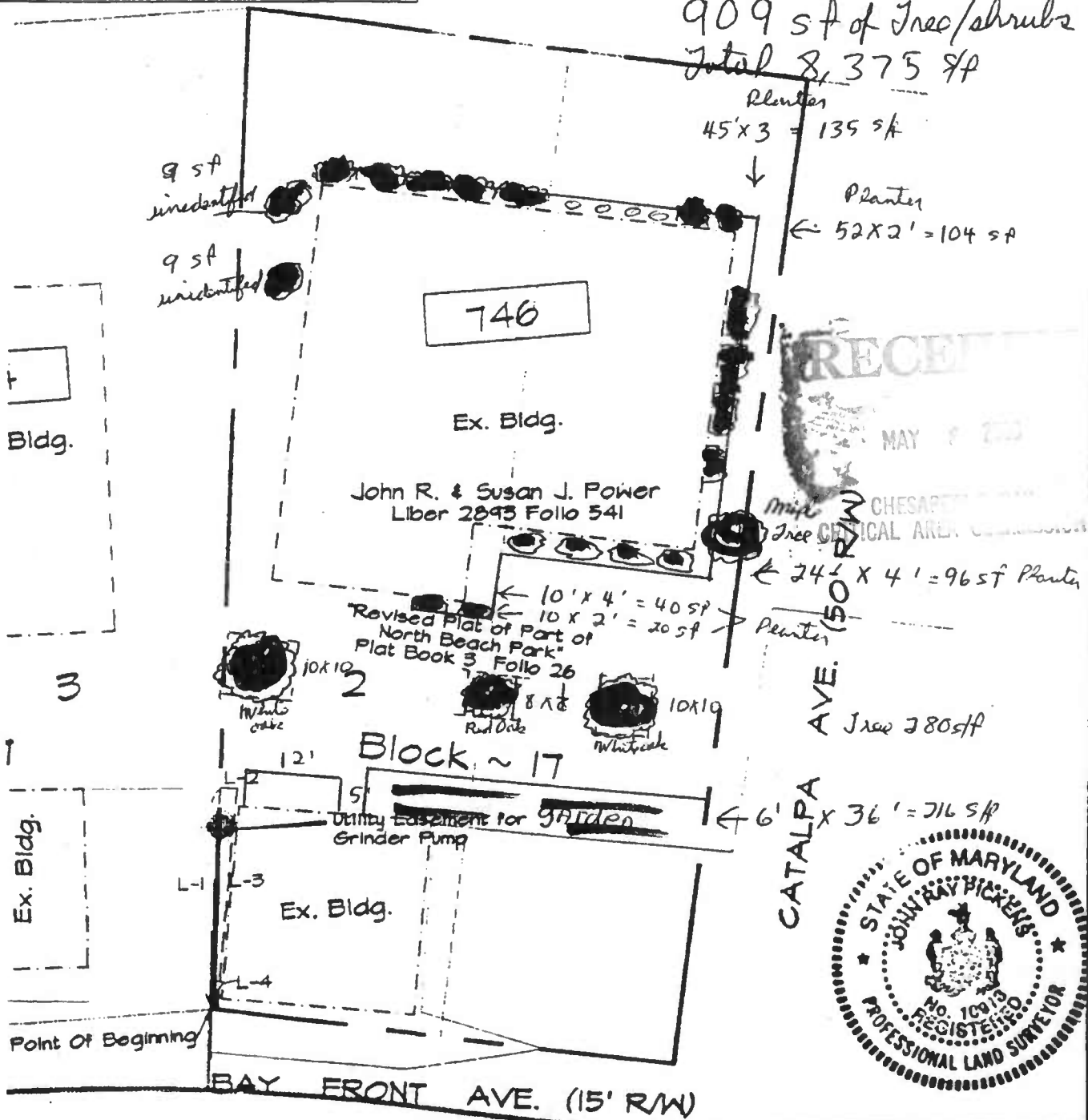
John R. Pickens 1-24-96
 JOHN RAY PICKENS
 PROP. LAND SURVEYOR 10019



Utility Easement for Grinder Pump
 Shown Thusly:

Area = 36.7 SqFt or 0.0008 Ac.±

LINE	DIRECTION	DISTANCE
L-1	N01°38'20"E	27.82'
L-2	S88°21'40"E	2.16'
L-3	S05°05'24"W	27.92'
L-4	N82°52'10"W	0.48'



DRAWN BY <u>C.Iner</u>	ANNE ARUNDEL COUNTY DEPARTMENT OF PUBLIC WORKS	SCALE 1"=20'	REVISIONS	
			DATE	BY
TRACED BY _____	Utility Easement for Grinder Pump John R. & Susan J. Power 746 Bay Front Avenue	DATE 1-2-96		
CHECKED BY <u>D.E.S.</u>		PROJECT NO. S-7573		
		APPROVED <i>Richard M. Bell</i>		

327-97 John
224-00

RECEIVED

JUL 5 2000

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0148-V

IN RE: JOHN AND SUSAN POWER

THIRD ASSESSMENT DISTRICT

DATE HEARD: JUNE 29, 2000

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: KEVIN DOOLEY

DATE FILED: JULY 3, 2000

PLEADINGS

John and Susan Power, the applicants, seek a variance (2000-0148-V) to permit a garage addition with less setbacks than required on property located along the north side of Bay Front Avenue, west of Catalpa Avenue, North Beach.

PUBLIC NOTIFICATION

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Mr. Power testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS AND CONCLUSIONS

The applicants own a single-family residence located at 746 Bay Front Avenue, in the subdivision of North Beach Park, North Beach. The property comprises 8,375 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). In addition to the dwelling, the property is improved with a 24' X 26' detached garage which is located 1-foot from the west side lot line and two feet from the rear lot line. The applicants propose to construct a second story addition over the garage.

The Anne Arundel County Code, Article 28, Section 2-507(a) requires accessory structures in the R-5 district to maintain 10 feet from any side and the rear lot line. Accordingly, the proposal necessitates a variance in the amount of nine feet to the west side setback and eight feet to the rear setback.

Kevin Dooley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is located in an older summer community which exhibits a variety of designs and nonconforming setbacks. The same structure was the subject of a recent decision by this office approving a variance for a 5' X 12' shed addition. See, Case No. 1997-0195-V (August 25, 1997). The witness testified that it is not unusual to find accessory structures in close proximity to their property lines in the neighborhood. Because the applicants are building up and not out, including an interior stairway, there will be no net increase in impervious coverage. By way of conclusion, Mr. Dooley supported the application.

Mr. Power testified that in recent years, five neighbors within three blocks have added second story additions to garages. The same condition exists on the properties immediately to the west and south. The witness testified that the proposal will provide storage space; there is none in the residence. He stated that his neighbors do not object to the request. There was no adverse testimony at the hearing.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. This proposal minimally satisfies

the test of exceptional circumstances, consisting of the location of the garage and the absence of storage in the residence, such that the variance is necessary to avoid an unnecessary hardship and to enable the applicant to develop the lot. Although the variance is substantial, it appears to be the minimum relief. There will be no additional encroachment into either the side or rear yards. All indications are that the proposal will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. A similar situation exists on two adjoining properties and other properties within the neighborhood. At the same time, it would appear that as a result of the construction, the property will be fully developed. Accordingly, I have appended conditions restricting further development activity. Additionally, the garage addition is limited to residential storage.

ORDER

PURSUANT to the application of John and Susan Power, petitioning for a variance to permit a garage addition with less setbacks than required; and

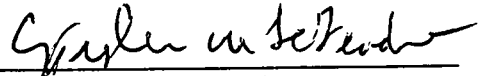
PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 3rd day of July, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a variance of nine feet to the west side setback and eight feet to the rear setback to permit a second story garage

addition (24' X 26') in accordance with the site plan.

The foregoing variance is subject to the following conditions:

1. There shall be no further development activity for this property.
2. The addition is restricted to residential storage.


Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.